

# **MARKET CONDUCT EXAMINATION**

## **AMERICAN HOME ASSURANCE COMPANY**

**160 Water St. 23<sup>rd</sup> Floor  
New York City, New York 10270**

## **NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH**

**70 Pine St.  
New York City, New York 10270**

**JANUARY 1, 2002 – DECEMER 31, 2002**



## TABLE OF CONTENTS

| <b>Section</b>   | <b>Page</b> |
|--|-------------|
| Table of Contents  | 2           |
| Salutation   | 3           |
| Chief Examiner's Report Certification & Acknowledgements | 4           |
| Foreword, Scope & Sampling Standards                     | 5           |
| Company History and Operations                           | 7           |
| General Examination Findings                             | 8           |
| Agent Activities   | 8           |
| Underwriting and Rating                                  | 9           |
| Rate and Form Filing                                     | 11          |
| Cancellations and Non-Renewals                           | 13          |
| Claims Settlement Practices                              | 13          |
| Summary of Standards                                     | 16          |
| Instructions and Recommendations                         | 21          |
| Appendices   | 22          |

The Honorable Mike Kreidler  
Washington State Insurance Commissioner  
PO Box 40255  
Olympia, Washington 98504

Dear Commissioner Kreidler:

Pursuant to your instructions and in compliance with the statutory requirements of RCW 48.03.010 and procedures promulgated by the National Association of Insurance Commissioners (NAIC) and the Office of the Insurance Commissioner (OIC), an examination of the market conduct affairs has been performed on the following Companies:

American Home Assurance Company, NAIC # 19380  
National Union Fire Company of Pittsburg, NAIC # 19445

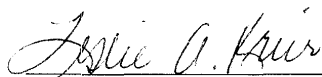
In this report, the above entities are collectively referred to as the Companies. This examination is respectfully submitted.

## CHIEF EXAMINER'S REPORT CERTIFICATION and ACKNOWLEDGEMENTS

This examination was conducted in accordance with Office of the Insurance Commissioner and National Association of Insurance Commissioners market conduct examination procedures. Sally Anne Carpenter, AIE, and Shirley M. Merrill of the Washington State Office of the Insurance Commissioner performed this examination and participated in the preparation of this report.

The examiners wish to express appreciation for the courtesy and cooperation extended by the personnel of the AIG companies during the course of this market conduct examination and particularly acknowledges the efforts of those people that provided daily support to the examiners.

I certify that the foregoing is the report of the examination, that I have reviewed this report in conjunction with pertinent examination work papers, that this report meets the provisions for such reports prescribed by the Office of the Insurance Commissioner, and that this report is true and correct to the best of my knowledge and belief.



Leslie A. Krier, AIE, FLMI  
Chief Market Conduct Examiner  
Office of the Insurance Commissioner  
State of Washington

## **FOREWORD**

This examination was completed by applying tests to each examination standard. Each test applied during the examination is stated in this report and the results are reported. Exceptions are noted as part of the comments for the applied test. Throughout the report, where cited, RCW refers to the Revised Code of Washington, and WAC refers to Washington Administrative Code.

### **Prior Examination Summary**

The prior full examination of the Companies covered the Companies' activities between January 1, 1993 and December 31, 1993. The exam was adopted in October 1995. The Companies subject to that exam were American Home Assurance Company and National Union Fire Insurance Company. Three instructions were issued as a result of the violations found by the examiners:

- The Companies were using forms, rates and rating plans that were not filed and approved for use as required by RCW 48.18.100 and RCW 48.19.040.
- The Companies were not maintaining documentation required to support "a" rates as required by WAC 284-24-070.
- The Companies were not maintaining documentation to support the use of schedule rating as required by WAC 284-24-100.

Any repetitive violations are addressed in the appropriate section of the examination.

## **SCOPE**

### Time Frame

The examination covered operations from January 1, 2002 through December 31, 2002. The examination was performed in the claims office, Portland, Oregon, the underwriting regional office, San Francisco, California, and through desk audit in the Seattle Office of the Insurance Commissioner.

### Matters Examined

The target examination included the following areas:

Agent Activities  
Underwriting and Rating  
Rate & Form Filings  
Cancellations and Non-Renewals  
Claims Settlement Practices

## **SAMPLING STANDARDS**

## Methodology

In general, the sample for each test utilized in this examination falls within the following guidelines:

|     |     |                        |
|-----|-----|------------------------|
|     | 92% | Confidence Level       |
| +/- | 5%  | Mathematical Tolerance |

These are the guidelines prescribed by the National Association of Insurance Commissioners in the Market Conduct Examiners Handbook.

## Regulatory Standards

Samples are tested for compliance with standards established by the Office of the Insurance Commissioner. The tests applied to sampled data will result in an error ratio, which determines whether or not a standard is met. If the error ratio found in the sample is, generally, less than 5%, the standard will be considered as passed. Standards in the areas of Agent Activity and Rates and Forms have a zero tolerance for errors. If any violations are found, the standard will fail. This also applies when all records are examined in lieu of a sample.

For those standards which look for the existence of written procedures or a process to be in place, the standard will pass or fail based on the examiner's analysis of those procedures or processes. The analysis will include a determination of whether or not the company follows established procedures.

Standards will be reported as Passed without Comment, Passed with Comment or Failed. The definition of each category follows.

|                        |  |
|------------------------|--|
| Passed without Comment | There were no adverse findings for the standard.                                       |
| Passed with Comment    | The records reviewed fell within the tolerance level for the standard.                 |
| Failed                 | The records reviewed fell outside of the tolerance level established for the standard. |
| Not Applicable         | The examination did not encompass records addressed by this standard.                  |

## COMPANY HISTORY AND OPERATIONS

| Company Name  | Domiciled State | Incorporation Date | Date Admitted to WA |
|---|-----------------|--------------------|---------------------|
| National Union Fire Insurance Co. of Pittsburgh, PA | PA              | February 14, 1901  | March 3, 1904       |
| American Home Assurance Company                     | NY              | February 1899*     | January 18, 1935    |

\*The company was originally organized as Globe & Rutgers Fire Insurance Company. The company changed names effective December 31, 1954.

American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa are two of the insurance companies in the American International Group of Companies. They are the primary markets for property, casualty and excess casualty coverage in the commercial lines market.

Susan M. Rivera is president of American Home Assurance Company. Kristian P. Moor is president and chief operations officer of National Union Fire Insurance Company of Pittsburgh, PA.

The Companies wrote the following commercial lines of business during the exam period:

|                   |                     |
|-------------------|---------------------|
| Property          | Umbrella and Excess |
| General Liability | Surety              |
| Package           | Airplanes           |
| Fidelity          | Work Comp           |
| Commercial Auto   |                     |

### **Findings**

Underwriting, Marketing and Claims functions are combined for both companies.

Operations and Management Standard #2 does not apply to this examination as it addresses the requirements of domestic insurers and holding companies to report amendments in their Articles of Incorporation to the OIC. The companies subject to this examination are foreign companies.

The following Operations and Management Standard Passed without Comment:

| # | OPERATIONS AND MANAGEMENT STANDARD  | REFERENCE               |
|---|---|-------------------------|
| 1 | <b>The company is required to be registered with the Office of Insurance Commissioner prior to acting as an insurance company in the State of Washington.</b> | <b>RCW 48.05.030(1)</b> |

## GENERAL EXAMINATION FINDINGS

The following General Examination Standards Passed without Comment:

| # | GENERAL EXAMINATION STANDARD   | REFERENCE                        |
|---|--|----------------------------------|
| 1 | All requested information was made available to the examiners, and the company otherwise facilitated the examination in a timely manner. | RCW 48.03.030(1)                 |
| 3 | The company maintains full and accurate records and accounts.  | RCW 48.05.280                    |
| 4 | The company filed an antifraud plan and annual fraud report with the Office of Insurance Commissioner.                                   | RCW 48.30A.045<br>RCW 48.30A.060 |

The following General Examination Standard Failed:

| # | GENERAL EXAMINATION STANDARD                       | REFERENCE   |
|---|--|---|
| 2 | The company does business in their own legal name. | RCW 48.05.190(1),<br>Bulletin 78-7,<br>Bulletin T 2000-06 |

### **General Examination Standard #2:**

Underwriting:

- 5910 renewal application forms identified two different insurers on the form.
- One policy contained a letter to the insured that did not identify the insurer.

*Subsequent event: The Companies provided evidence that a revised application was approved by the OIC December 26, 2003.*

Claims:

- 29 of the 106 files reviewed contained correspondence in violation because the correspondence in the file did not identify the appropriate insurer or it identified the wrong insurer.

See Appendix 5 for detail.

*Subsequent event: The Assistant Vice President of claims advised that because of our findings the Companies initiated a project to ensure that the issue of legal names was addressed in all their offices- nationwide. The Companies also advised that their automated system has been changed to input the Company name on its correspondence.*

See Appendix 5 for detail.

## AGENT ACTIVITIES

The examiners reviewed agents listed on the 128 policies from the underwriting sample. The examiners compared the Companies' agent licensing records with the Office of the Insurance Commissioner's (OIC) records to ensure that agents were licensed and appointed prior to soliciting business on behalf of the Companies as required by Washington law.



## Findings

The following Agent Activity Standards Passed Without Comment:

| # | AGENT ACTIVITY STANDARD   | REFERENCE        |
|---|---|------------------|
| 3 | The company must notify the Office of the Insurance Commissioner when an agent's appointment has been revoked.              | RCW 48.17.160(3) |
| 4 | The company must give an agency with a written agency contract at least 120 notice of its intent to terminate the contract. | RCW 48.17.591(2) |

The following Agent Activity Standards Failed:

| # | AGENT ACTIVITY STANDARD   | REFERENCE                |
|---|---|--------------------------|
| 1 | The company must ensure that agents or brokers are licensed for the appropriate line of business with the State of Washington prior to allowing agents to solicit business or represent the company in any way. | RCW 48.17.060(1) and (2) |
| 2 | The company must require that agents are appointed to represent the company prior to allowing agents to solicit business on behalf of the company.  | RCW 48.17.160            |

### Agent Activity Standard #1:

- One agency acting as a managing general agent and one broker were identified as not licensed in Washington. 6,301 policies were written by this agency or broker.

*Subsequent event:* The Companies provided documentation that the agency has been licensed in Washington. They have notified the broker to obtain a non-resident brokers license.

### Agent Activity Standard #2:

- Two agents writing business for the Companies were licensed in Washington, but were not appointed with the Company. These agents wrote 2 policies.

See Appendix 1 for details.

## **UNDERWRITING AND RATING**

The examiners selected 128 policies from 1,671 commercial lines policies which were either newly issued or renewed during the exam period.

Files were reviewed to determine if the Companies followed the filed rating plans, followed the filed underwriting rules, and were in compliance with Washington laws.

The examiners manually rated policies to determine if there were any programmed errors in the Companies' computer system and if the Companies were using their filed and approved rates.

### **Findings**

The following Underwriting Standards Passed without Comment:

| # | UNDERWRITING STANDARD   | REFERENCE   |
|---|---|---|
| 2 | The company requires an insured to reject or request lower limits in writing for Underinsured Motorist (UIM) coverage. The company requires an insured to reject or request lower limits in writing for Underinsured Motorist (UIM) coverage. | RCW 48.22.030(3)&(4)  |
| 3 | The company must require an insured to reject Personal Injury Protection (PIP) in writing.  | RCW 48.22.085(2)  |
| 4 | During underwriting, the company must obtain and use only the personal driving record for personal insurance and only the employment driving record for commercial insurance.   | RCW 48.30.310,<br>RCW 46.52.130,<br>WAC 308-104-145,<br>Bulletin 79-3 |
| 6 | The company must retain all documentation related to the development and use of (a) rates.  | WAC 284-24-070  |
| 7 | The company may not rely solely on the decision of another insurer's denial, cancellation, or non-renewal of insurance to support a denial or termination of coverage.  | WAC 284-30-574  |
| 8 | Binders must identify the insurer which is bound by the form.   | WAC 284-30-560(2)(a)  |

The following Underwriting Standard Passed With Comment:

| # | UNDERWRITING STANDARD  | REFERENCE                           |
|---|--|-------------------------------------|
| 1 | Binders issued to temporarily secure coverage during underwriting are valid until the policy is issued or ninety days, whichever is shorter and shall identify the company providing the coverage and effective dates. | RCW 48.18.230(1),<br>WAC 284-30-560 |

#### **Underwriting Standard #1:**

- The Companies issued conditional binders which showed a one year effective date instead of limiting the time to ninety days or less as required by RCW 48.18.230(1). On 20 of the 21 policies the Companies were able to demonstrate that the policy had been issued, replacing the binder, within the 90 day time frame.

The following Underwriting Standard Failed:

| # | UNDERWRITING STANDARD   | REFERENCE      |
|---|---|----------------|
| 5 | The company must apply schedule rating plans to all policies as applicable in its filing and retain documentation and analysis to support the company's decision. | WAC 284-24-100 |

**Underwriting Standard #4:**

- 20 of the 128 policies reviewed contained violations. Debits and credits had been applied without supporting documentation being placed in the file. This violation was also found in the prior exam. Included in this total is a group of policies that were credited 15% instead of being debited 15%. The companies' acknowledged it was their intention to debit these files 15% as part of their rating for terrorism, even though the files contained worksheets that indicated the reasons for the companies actions were not related to terrorism. Additional information is found in Rate and Form Filing Standard #2 and #7.

See Appendix 2 for detail.

**RATE AND FORM FILINGS**

In order to determine if the Companies complied with Washington laws about filing rates, rate plans and forms the examiners reviewed forms and rates from the new and renewal policies in the underwriting sample.

**Findings**

Standard #1 does not apply to this examination as it applies to personal lines only.

The following Rate and Form Filing Standards Passed without Comment:

| # | POLICY PROVISION STANDARD   | REFERENCE                    |
|---|---|------------------------------|
| 3 | The policy identifies all forms that make up the policy. The policy identifies all coverage limits.                             | RCW 48.18.140(2)(a)&(f)      |
| 4 | The policy must contain all endorsements and forms.   | RCW 48.18.190                |
| 6 | Personal Injury Protection forms issued by the company contains coverage definitions and limits that conform to Washington law. | RCW 48.22.095, RCW 48.22.005 |

The following Rate and Form Filing Standards Failed:

| # | POLICY PROVISION STANDARD   | REFERENCE             |
|---|---|-----------------------|
| 2 | Where required, the company has filed with the OIC, classification manuals, manuals of rules and rates, rating plans, rating schedules, minimum rates, class rates, and rating rules prior to use, does not issue any policies that are not in accord with the filing then in effect. | RCW 48.19.040(1) &(6) |
| 5 | Policy forms for commercial policies are filed within 30 days of use (RCW 48.18.103(2))   | RCW 48.18.103(2)      |
| 7 | Rates for commercial property/casualty policies must be filed within 30 days of use.  | RCW 48.19.043(2)      |

**Rate and Forms Filing Standard #2:**

- 5,910 policies in the Social Workers Program were not issued according to the approved rate and form filings resulting in overcharges between \$1 to \$3 dollars each. This occurred because the rates on the application were incorrect.

*Subsequent event: The Companies re-filed the application with the correct rates. This form was approved by the OIC December 26, 2003.*

- 481 policies were written with un-filed rates, with an estimated \$144,503.71 overcharged by the Companies. Based on a memo issued 10/22/01 the president of American Home Assurance, the Companies implemented a significant change to their filed rating plan. The memo defined the Companies' approach to increasing premium in the excess casualty business. The plan instructed underwriters to add premium to policies that did not have terrorist exclusions in the underlying coverage following the September 11, 2001 terrorist attack. The rate plan also defined the hazard risks (low or high) and added premium accordingly: 30% additional premium for high hazard risk and 10-15 % for low hazard risk.

On 12-27-02, the rate plan was revised to lower the hazard risk charge to 5%. An Underwriting Bulletin was issued to implement this change.

On 1-8-2003 the companies again revised the plan and issued an Underwriting Bulletin revising the charge to 1%.

The Companies did not file the 1% rate plan until March 2003, which, under the file and use laws in Washington, permitted use effective February 26, 2003.

Violations of rate filings were found in the prior exam.

#### **Rate and Forms Filing Standard #5:**

- Approximately 1,300 policies were issued with 21 forms that were not filed within 30 days of use.

*Subsequent event: The Companies provided documentation that two forms were filed and received approval from the OIC. The Companies state they have discontinued use of the other 19 unapproved forms.*

- 5,910 policies were written with a renewal application form that was not filed within 30 days of use.

*Subsequent event: The Companies filed a corrected application that was approved for use December 26, 2003.*

See Appendix 3 for detail.

#### **Rate and Form Filing Standard #7:**

- 5,910 policies were written with rates that were not filed and approved within 30 days of use. (See Rate and Form Filing Standard #2)
- 481 policies were issued with rates that were not filed within 30 days of use. (See Rate and Form Standard #2)

See Appendix 4 for detail.

## CANCELLATIONS AND NON-RENEWALS

The examiners reviewed files to determine if the Companies were in compliance with state laws governing policy cancellation and non-renewal. The examiners reviewed all 15 policies that were either cancelled or non-renewed during the exam period.

### Findings

The following Cancellation and Non-renewal Standards Passed without Comment:

| # | CANCELLATION & NON-RENEWAL STANDARD   | REFERENCE  |
|---|---|--|
| 1 | The company does not cancel or refuse to renew policies because the agent is no longer affiliated with the company.                   | RCW 48.17.591  |
| 2 | The company sends offers to renew, or cancellation or non-renewal notices, according to the requirements prior to policy termination. | RCW 48.18.290,<br>RCW 48.18.2901,<br>RCW 48.18.291,<br>RCW 48.18.292 |
| 3 | The company includes the actual reason for canceling, denying or refusing to renew an insurance policy when notifying the insured.    | WAC 284-30-570   |

## CLAIM SETTLEMENT PRACTICES

The examiners selected 190 claim files for review from a population of 1,666 claims closed during the examination period.

Files were reviewed for:

- Compliance with Washington law
- Timeliness of contact with claimants
- Promptness of payments
- Explanation of applicable coverage
- Procedures for establishing actual cash value of total loss vehicles
- Documentation of claim files

Washington claims are handled in the field office in Portland, Oregon or in other claims offices with expertise in specific areas of insurance or specific types of losses.

### Findings

190 claim files were requested for the sample. Six files were not provided by the Companies for the examination because the hard copy file could not be located. Files were tested to individual claims standards. In some cases the standard was not applicable to the file.

The following Claims Standards Passed without Comment:

| # | CLAIM STANDARD | REFERENCE |
|---|----------------|-----------|
|---|----------------|-----------|

| # | CLAIM STANDARD   | REFERENCE                                    |
|---|--|--|
| 1 | The company settles claims in a manner that is not in conflict with any section of the Unfair Claims Settlement Act.                         | WAC 284-30-330(1) through WAC 284-30-330(19) |
| 3 | The company provides an explanation of all pertinent coverage to first party claimants.  | WAC 284-30-350                               |
| 5 | The company complies with requirements for prompt investigation of claims.   | WAC 284-30-370                               |
| 6 | The company accepts or denies coverage within 15 days after receiving proof of claim.  | WAC 284-30-380                               |
| 7 | The company settles automobile claims in accordance with standards established for prompt, fair and equitable claim settlements.             | WAC 284-30-390                               |
| 8 | The company complies with the regulation regarding notification of PIP benefits, limitations, termination, or denial of benefits.            | WAC 284-30-395                               |
| 9 | The company surrenders titles for total loss vehicles to the Department of Licensing or provides other authorized documentation as required. | RCW 46.12.070, WAC 308-56A-460               |

The following Claims Standards Passed with Comment:

| # | CLAIM STANDARD  | REFERENCE                 |
|---|---|---------------------------|
| 2 | Company claim files contain detailed log notes and work papers to allow reconstruction of the claim files.  | WAC 284-30-340            |
| 4 | The company acknowledges receipt of a claim within 10 days, and responds to all communications on a claim file within the time frames prescribed. | WAC 284-30-360(1) and (3) |

**Claim Standard #2:**

- Four files (3%) of 184 did not meet the standard because the claim handler's log notes were incomplete. The standard was applicable to all the files in the sample.

**Claim Standard #4:**

- Two files (1.6%) did not meet the standard because the claim handler failed to respond to correspondence in a timely manner. The standard was applicable to 125 of the 184 files as these files contained correspondence.

The following General Examination Standard Passed with Comment:

| # | GENERAL EXAMINATION STANDARD   | REFERENCE        |
|---|--|------------------|
| 1 | All requested information was made available to the examiners, and the company otherwise facilitated the examination in a timely manner. | RCW 48.03.030(1) |

**General Exam Standard #1:**

- Six hard copy files were not produced for the examination because the company could not locate them. Each of the files had been handled by a different claims office. Notes for those files that were on line were reviewed.



## SUMMARY OF STANDARDS

### **Company Operations and Management:**

| # | STANDARD  | PAGE | PASS | FAIL |
|---|---|------|------|------|
| 1 | The company is required to be registered with the Office of Insurance Commissioner prior to acting as an insurance company in the State of Washington. (RCW 48.05.030(1)) |      | X    |      |
| 2 | The company is required to file with the OIC any amendments to the Articles of Incorporation for domestic insurers or insurance holding companies. (RCW 48.07.070)        |      | NA   |      |

### **General Examination Standards:**

| # | STANDARD  | PAGE | PASS | FAIL |
|---|---|------|------|------|
| 1 | All requested information was made available to the examiners, and the company otherwise facilitated the examination in a timely manner. (RCW 48.03.030(1))   |      | X    |      |
| 2 | The company does business in its own legal name. (RCW 48.05.190(1), Bulletin 78-7, Technical Assistance Advisory T 2000-06)                                   |      |      | X    |
| 3 | The company maintains full and accurate records and accounts. (RCW 48.05.280)   |      | X    |      |
| 4 | The company filed an antifraud plan and files annual anti-fraud annual reports with the Office of Insurance Commissioner. (RCW 48.30A.045 and RCW 48.03A.060) |      | X    |      |

### **Advertising:**

| # | STANDARD   | PAGE | PASS | FAIL |
|---|--|------|------|------|
| 1 | The company's advertising materials do not contain any false, deceptive or misleading representations. (RCW 48.30.040)   |      | N/A  |      |
| 2 | The company does not use quotations or evaluations from rating services or other sources in a manner that appears to be deceptive to the public. (WAC 284-30-660)  |      | N/A  |      |
| 3 | The company must use its full name and include the location of its home office or principle office in all advertisements. (RCW 48.30.050, Bulletin 78-7, Technical Assistance Advisory T 2000-06)  |      | N/A  |      |
| 4 | The company referencing its financial condition in advertisements is required to show the actual financial condition as it corresponds with the financial statements published by each company, and must include only those assets actually owned and possessed by each company exclusively. (RCW 48.30.070) |      | N/A  |      |
| 5 | The company does not advertise the existence of the  |      | N/A  |      |

| # | STANDARD   | PAGE | PASS | FAIL |
|---|--|------|------|------|
|   | Washington Insurance Guaranty Association. (RCW 48.30.075)   |      |      |      |
| 6 | The company does not include any statements in its advertising material that would appear to defame the name of other insurers. (RCW 48.30.080)  |      | N/A  |      |
| 7 | The company does not misrepresent the terms of its policies in any form during the advertising and solicitation of its products. (RCW 48.30.090)   |      | N/A  |      |
| 8 | The company does not offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured any rebate, discount, abatement or reduction of premium or any part of these as an inducement to purchase or renew insurance unless specifically exempted from this statute. (RCW 48.30.140, RCW 48.30.150) |      | N/A  |      |

**Agent Activity:**

| # | STANDARD   | PAGE | PASS | FAIL |
|---|--|------|------|------|
| 1 | The company must ensure that agents or brokers are licensed for the appropriate line of business with the State of Washington prior to allowing agents to solicit business or represent the company in any way. (RCW 48.17.060(1) and (2)) |      |      | X    |
| 2 | The company must require that agents are appointed to represent the company prior to allowing agents to solicit business on behalf of the company. (RCW 48.17.160)   |      |      | X    |
| 3 | The company must notify the Office of the Insurance Commissioner when an agent's appointment has been revoked. (RCW 48.17.160(3))  |      | X    |      |
| 4 | The company must give an agency with a written agency contract at least 120 notice of its intent to terminate the contract. (RCW 48.17.591(2))   |      | X    |      |

**Complaints:**

| # | STANDARD  | PAGE | PASS | FAIL |
|---|---|------|------|------|
| 1 | Response to communication from the OIC must be within 15 business days of receipt of the correspondence. The response must contain the substantial information requested in the original communication. (WAC 284-30-650, WAC 284-30-360(2), Technical Assistance Advisory T 98-4) |      | N/A  |      |

**Underwriting and Rating:**

| # | STANDARD  | PAGE | PASS | FAIL |
|---|---|------|------|------|
| 1 | Binders issued to temporarily secure coverage during underwriting are valid until the policy is issued or ninety days, whichever is shorter and shall identify the company providing the coverage and effective dates. (RCW 48.18.230(1), WAC 284-30-560) |      | X    |      |
| 2 | The company requires an insured to reject or request lower limits in writing for Underinsured Motorist (UIM) coverage. (RCW 48.22.030(3)&(4))   |      | X    |      |
| 3 | The company must require an insured to reject Personal Injury Protection (PIP) coverage in writing. (RCW 48.22.085(2))  |      | X    |      |
| 4 | During underwriting, the company must obtain and use only the personal driving record for personal insurance and only the employment driving record for commercial insurance. (RCW 48.30.310, RCW 46.52.130, Bulletin 79-3, WAC 308-104-145)              |      | X    |      |
| 5 | The company must apply schedule rating plans to all policies as applicable in its filing and retain documentation and analysis to support the company's decision. (WAC 284-24-100)  |      |      | X    |
| 6 | The company must retain all documentation related to the development and use of (a) rates. (WAC 284-24-070)   |      | X    |      |
| 7 | The company may not rely solely on the decision of another insurer's denial, cancellation, or non-renewal of insurance to support a denial or termination of coverage. (WAC 284-30-574)   |      |      | X    |
| 8 | Binders must identify the insurer which is bound by the form. (WAC 284-30-560(2)(a))  |      | X    |      |

**Rate and Form Filings:**

| # | STANDARD   | PAGE | PASS | FAIL |
|---|--|------|------|------|
| 1 | Policy forms and applications, where required, have been filed with and approved by the OIC prior to use. (RCW 48.18.100) applies to personal lines only   |      | NA   |      |
| 2 | Where required, the company has filed with the OIC, classification manuals, manuals of rules and rates, rating plans, rating schedules, minimum rates, class rates, and rating rules prior to use, and does not issue any policies that are not in accord with the filing in effect. (RCW 48.19.040 (1)&(6)) |      |      | X    |
| 3 | The policy identifies all forms that make up the policy. The policy identifies all coverage limits. (RCW 48.18.140(2)(a)&(f))  |      | X    |      |
| 4 | The policy must contain all endorsements and forms. (RCW 48.18.190)  |      | X    |      |
| 5 | Policy forms for commercial policies are filed within 30 days  |      |      | X    |

| # | STANDARD  | PAGE | PASS | FAIL |
|---|---|------|------|------|
|   | of use. (RCW 48.18.103(2))  |      |      |      |
| 6 | Personal Injury Protection forms issued by the company contain coverage definitions and limits that conform to Washington law. (RCW 48.22.095, RCW 48.22.005) |      | X    |      |
| 7 | Rates for commercial property/casualty policies must be filed within 30 days of use. (RCW 48.19.043(2))   |      |      | X    |

**Cancellations and Non-Renewals:**

| # | STANDARD  | PAGE | PASS | FAIL |
|---|---|------|------|------|
| 1 | The company does not cancel or refuse to renew policies because the agent is no longer affiliated with the company. (RCW 48.17.591)   |      | X    |      |
| 2 | The company sends offers to renew or cancellation or non-renewal notices according to the requirements prior to policy termination. (RCW 48.18.290, RCW 48.18.2901, RCW 48.18.291, RCW 48.18.292) |      | X    |      |
| 3 | The company includes the actual reason for canceling, denying or refusing to renew an insurance policy when notifying the insured. (WAC 284-30-570)   |      | X    |      |

**Claims:**

| # | STANDARD   | PAGE | PASS | FAIL |
|---|--|------|------|------|
| 1 | The company settles claims in a manner that is not in conflict with any section of the Unfair Claims Settlement Act. (WAC 284-30-330(1) through (19))                      |      | X    |      |
| 2 | Company claim files contain detailed log notes and work papers that allow reconstruction of the claim file. (WAC 284-30-340)   |      | X    |      |
| 3 | The company provides an explanation of all pertinent coverage to first party claimants. (WAC 284-30-350)   |      | X    |      |
| 4 | The company acknowledges receipt of a claim within 10 days, and responds to all communication on a claim file within the time frames prescribed. (WAC 284-30-360(1) & (3)) |      | X    |      |
| 5 | The company complies with requirements for prompt investigation of claims. (WAC 284-30-370)  |      | X    |      |
| 6 | The company accepts or denies coverage within 15 days after receiving proof of claim. (WAC 284-30-380)   |      | X    |      |
| 7 | The company settles automobile claims in accordance with standards established for prompt, fair and equitable claim settlements. (WAC 284-30-390)                          |      | X    |      |
| 8 | The company complies with the regulation regarding notification of PIP benefits, limitations, termination, or denial of benefits. (WAC 284-30-395)                         |      | X    |      |

| # | STANDARD  | PAGE | PASS | FAIL |
|---|---|------|------|------|
| 9 | The company surrenders titles for total loss vehicles to the Department of Licensing or provides other authorized documentation as required. (RCW 46.12.070, WAC 308-56A-460) |      | X    |      |

## INSTRUCTIONS AND RECOMMENDATIONS

### INSTRUCTIONS

| <b>Instruction #</b> | <b>Instruction</b>   | <b>Page</b> |
|----------------------|--|-------------|
| 1                    | The Companies are instructed to comply with RCW 48.05.190(1) to ensure all correspondence and claim settlement checks correctly identify the insuring company.   | 8           |
| 2                    | The Companies are instructed to comply with WAC 284-24-100 to ensure that all files eligible for schedule rating are considered. The company will further comply by documenting individual risk modifiers based on factual information that is retained in the file. Additionally the Companies will refund all premium debited for any reason, including terrorism, without supporting documentation. | 10          |
| 3                    | The Companies are instructed to comply with RCW 48.17.060 and RCW 48.17.160 to ensure all agents and brokers are licensed in Washington, and all agents are appointed with the company prior to soliciting business for the company.   | 9           |
| 4                    | The Companies are instructed to comply with RCW 48.18.103 and ensure that all forms are filed within 30 days of use.   | 11          |
| 5                    | The Companies are instructed to comply with RCW 48.19.040(6) and ensure that all rates used are filed and approved for use.  | 11          |
| 6                    | The Companies are instructed to comply with RCW 48.19.043(2) and file all rates within 30 days of use.   | 11          |

### RECOMMENDATIONS

| <b>Recommendation #</b> | <b>Recommendation</b>   | <b>Page</b> |
|-------------------------|---|-------------|
| 1                       | Correct conditional binder language to comply with time frames as outlined in RCW 48.18.230(1), WAC 284-30-560. | 10          |
| 2                       | Correct the claims archiving procedures to ensure that claim files can be located.                              | 13          |

## APPENDIX 1

| <b>Agent Activity Standards # 1 and #2: RCW 48.17.060 and/or RCW 48.17.160</b>   |   |
|--|---|
| <b>Agent Name</b>  | <b>Number of Violations</b>   |
| Lockton Companies of Colorado are licensed in Washington as an agent. No appointment with any company subject to this examination. The company was acting as a broker. | 5 policies  |
| American Professional Agency, Inc. acting as managing general agent In Washington State unlicensed from September 03, 1997 to August 03, 2003.                         | 6296 policies in 3 programs: Social Workers - 5,910 policies, Student School - 362 policies & Travel Agency Professional Liability - 24 policies. |
| Robert Rhodunda who was licensed has no appointment with any company subject to this exam.   | 1 Application was submitted through American Professional Agency. The policy was issued in American Home Assurance Company.                       |
| Baldwin & Whitney of Dayton, Ohio, was licensed but is not appointed with any company subject to this exam.  | 1 Application was submitted through American Professional Agency. The policy was issued in American Home Assurance.                               |

## APPENDIX 2

| Underwriting and Rating Standard #5: WAC 284-24-100 |  |
|---|--|
| Policy Number                                       | Company Action   |
| Various   | 481 Umbrella policies contained credits or debits without supporting documentation for terrorism coverage. |
| 2127729   | 15% credit without documentation   |
| 2141246   | 30% credit applied no documentation to support the decision  |
| 2129699   | no documentation to support the underwriter's decision   |
| 2128827   | no documentation to support the underwriter's decision   |
| EBU 2128790   | no documentation to support the underwriter's decision   |
| 2986548   | \$621 returned to the insured  |
| 6423461   | 15% credit without documentation   |
| 2128939   | 15% credit without documentation   |
| 2129993   | 15% credit without documentation   |
| 2130044   | 15% credit without documentation   |
| 2128518   | 15% credit without documentation   |
| 2128713   | 15% debit without documentation  |
| EBU 6423536   | policy debited without documentation \$25 returned to the insured  |
| 2127729   | 15% credit without documentation   |
| 6423779   | 25% debit without documentation  |
| 1095249   | policy debited without documentation   |
| 2195124   | 20% debits without documentation   |
| 1398096   | 15% debit War and terrorism without documentation  |
| 11395130  | 10% debit without documentation  |
| 2129647   | 15% credit without documentation   |



### APPENDIX 3

| Rate and Form Filing Standard #5<br>RCW 48.18.103 |   |                         |                    |
|---|---|-------------------------|--------------------|
| FORM NUMBER                                       | FORM NAME   | DATE OF FILING APPROVAL | NUMBER OF POLICIES |
| 78951 (12/01)                                     | Terrorist Exclusion   | not filed               | 34                 |
| 78946(12/01)                                      | Terrorist Exclusion   | not filed               | 135                |
| 78945 (12/01)                                     | War Exclusion   | not filed               | 166                |
| 78947 (12/01)                                     | War Exclusion   | not filed               | 133                |
| 78692 (08/01)                                     | Umbrella Elite Liability Policy fungus Exclusion                                      | not filed               | 320                |
| 78691 (08/01)                                     | Commercial Umbrella Policy Fungus Exclusion   | not filed               | 64                 |
| 78173 (06/01)                                     | Lead Exclusion  | not filed               | 73                 |
| 78174 (06/01)                                     | Tobacco Products Exclusion  | not filed               | 2                  |
| no number   | Failure to Effect or Maintain Adequate Insurance                                      | not filed               | 80                 |
| no number   | Sponsor and Developer Exclusion   | not filed               | 13                 |
| qe2388  | Extended reporting  | not filed               | 27                 |
| Manuscript  | Full prior acts   | not filed               | 11                 |
| qe2188  | defense costs   | not filed               | 8                  |
| qe2195  | Punitive damages  | not filed               | 23                 |
| qe2198  | Worldwide coverage  | not filed               | 53                 |
| no number   | deletion of third party coverage  | not filed               | 64                 |
| cr 10 04  | Trading Loss Exclusion  | not filed               | 33                 |
| Gen 85  | Manuscript to exclude "practice as a psychologist". Social Workers Liability program. | not filed               | 1                  |
| 24006(3/94)                                       | Claim Report  | not filed               | 24                 |
| 30610(2/81)                                       | WA. Amendatory Endorsement  | not filed               | 24                 |
| 2048  | Coverage form   | not filed               | 12                 |
| Renewal Application                               | Social Workers  | not filed               | 5910               |

### APPENDIX 4

| <b>Rate and Form Filings Standard #7</b> | <b>Comments</b>   | <b>Date of Filing Approval if any</b> |
|--|---|---------------------------------------|
| <b>RCW 48.19.040(1)&amp;(6)</b>          |   |                                       |
| 5,910 policies                           | Company applied incorrect rates which resulted in an overcharge \$1 to \$3 dollars to insureds. Social Workers Program.   | Changes in rates were not filed.      |
| various                                  | Company applied debits to policies without terrorism exclusions following the 9/11/01 terrorist attack. Request for rate approval were not filed until 2003. The Company was using Individual Rate Premium Modification (IRPM) a.k.a. schedule rating, to document the actions. | rates not filed                       |
| <b>RCW 48.19.043</b>                     |   |                                       |
| 5,910 policies                           | Company applied incorrect rates which resulted in an overcharge of \$1 to \$3 dollars to insureds. Social Workers Program.  | Changes in rates were not filed.      |

## APPENDIX 5

| General Standard #2: RCW 48.05.190(1), Bulletin 78-7 & Technical Assistance Advisory T2000-06 |                 |  |  |
|---|-----------------|--|--|
| POLICY NUMBER   | # of VIOLATIONS | COMMENTS   | ADDITIONAL NOTE  |
| <b>UNDERWRITING</b>   |                 |  |  |
| SWL 1470664   | 1               | One letter sent to the agent did not contain the name of the insurer.  |  |
| various   | 5,910 policies  | Renewal application contained two insurer names. There was no way to distinguish which is the actual insurer. This application states that it "will be attached to and made a part of the policy." | The Company provided a copy of the renewal application which was filed in Jan 2004. The application was changed to include the approved rates and the insuring company name. |
| <b>CLAIMS</b>   |                 |  |  |
| various   | 29 claim files  | 27% of the claim files contained correspondence that did not identify the insurer or identified the wrong insurer  | The Company advised they were starting a project while the examiners were on sight to ensure that the legal name issue was addressed in all their offices-nationwide.        |